

# HB2620



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2620

Introduced 2/21/2013, by Rep. Al Riley

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-113.14

Amends the General Provisions Article of the Illinois Pension Code. In a Section requiring the use of a competitive selection process for obtaining investment services, creates an additional exception for "contracts for follow-on funds with the same fund sponsor through closed-end funds". Effective immediately.

LRB098 07979 EFG 38068 b

PENSION IMPACT  
NOTE ACT MAY  
APPLY

A BILL FOR

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing  
5 Section 1-113.14 as follows:

6 (40 ILCS 5/1-113.14)

7 Sec. 1-113.14. Investment services for retirement systems,  
8 pension funds, and investment boards, except those funds  
9 established under Articles 3 and 4.

10 (a) For the purposes of this Section, "investment services"  
11 means services provided by an investment adviser or a  
12 consultant other than qualified fund-of-fund management  
13 services as defined in Section 1-113.15.

14 (b) The selection and appointment of an investment adviser  
15 or consultant for investment services by the board of a  
16 retirement system, pension fund, or investment board subject to  
17 this Code, except those whose investments are restricted by  
18 Section 1-113.2, shall be made and awarded in accordance with  
19 this Section. All contracts for investment services shall be  
20 awarded by the board using a competitive process that is  
21 substantially similar to the process required for the  
22 procurement of professional and artistic services under  
23 Article 35 of the Illinois Procurement Code. Each board of

1 trustees shall adopt a policy in accordance with this  
2 subsection (b) within 60 days after the effective date of this  
3 amendatory Act of the 96th General Assembly. The policy shall  
4 be posted on its web site and filed with the Illinois  
5 Procurement Policy Board. Exceptions to this Section are  
6 allowed for (i) sole source procurements, (ii) emergency  
7 procurements, ~~and~~ (iii) at the discretion of the pension fund,  
8 retirement system, or board of investment, contracts that are  
9 nonrenewable and one year or less in duration, so long as the  
10 contract has a value of less than \$20,000, and (iv) in the  
11 discretion of the pension fund, retirement system, or  
12 investment board, contracts for follow-on funds with the same  
13 fund sponsor through closed-end funds. All exceptions granted  
14 under this Section must be published on the system's, fund's,  
15 or board's web site, shall name the person authorizing the  
16 procurement, and shall include a brief explanation of the  
17 reason for the exception.

18 A person, other than a trustee or an employee of a  
19 retirement system, pension fund, or investment board, may not  
20 act as a consultant or investment adviser under this Section  
21 unless that person is registered as an investment adviser under  
22 the federal Investment Advisers Act of 1940 (15 U.S.C. 80b-1,  
23 et seq.) or a bank, as defined in the federal Investment  
24 Advisers Act of 1940 (15 U.S.C. 80b-1, et seq.).

25 (c) Investment services provided by an investment adviser  
26 or a consultant appointed under this Section shall be rendered

1 pursuant to a written contract between the investment adviser  
2 or consultant and the board.

3 The contract shall include all of the following:

4 (1) Acknowledgement in writing by the investment  
5 adviser or consultant that he or she is a fiduciary with  
6 respect to the pension fund or retirement system.

7 (2) The description of the board's investment policy  
8 and notice that the policy is subject to change.

9 (3) (i) Full disclosure of direct and indirect fees,  
10 commissions, penalties, and other compensation, including  
11 reimbursement for expenses, that may be paid by or on  
12 behalf of the consultant in connection with the provision  
13 of services to the pension fund or retirement system and  
14 (ii) a requirement that the consultant update the  
15 disclosure promptly after a modification of those payments  
16 or an additional payment.

17 (4) A requirement that the investment adviser or  
18 consultant, in conjunction with the board's staff, submit  
19 periodic written reports, on at least a quarterly basis,  
20 for the board's review at its regularly scheduled meetings.  
21 All returns on investment shall be reported as net returns  
22 after payment of all fees, commissions, and any other  
23 compensation.

24 (5) Disclosure of the names and addresses of (i) the  
25 consultant or investment adviser; (ii) any entity that is a  
26 parent of, or owns a controlling interest in, the

1 consultant or investment adviser; (iii) any entity that is  
2 a subsidiary of, or in which a controlling interest is  
3 owned by, the consultant or investment adviser; (iv) any  
4 persons who have an ownership or distributive income share  
5 in the consultant or investment adviser that is in excess  
6 of 7.5%; or (v) serves as an executive officer of the  
7 consultant or investment adviser.

8 (6) A disclosure of the names and addresses of all  
9 subcontractors, if applicable, and the expected amount of  
10 money each will receive under the contract, including an  
11 acknowledgment that the contractor must promptly make  
12 notification, in writing, if at any time during the term of  
13 the contract a contractor adds or changes any  
14 subcontractors. For purposes of this subparagraph (6),  
15 "subcontractor" does not include non-investment related  
16 professionals or professionals offering services that are  
17 not directly related to the investment of assets, such as  
18 legal counsel, actuary, proxy-voting services, services  
19 used to track compliance with legal standards, and  
20 investment fund of funds where the board has no direct  
21 contractual relationship with the investment advisers or  
22 partnerships.

23 (7) A description of service to be performed.

24 (8) A description of the need for the service.

25 (9) A description of the plan for post-performance  
26 review.

1 (10) A description of the qualifications necessary.

2 (11) The duration of the contract.

3 (12) The method for charging and measuring cost.

4 (d) Notwithstanding any other provision of law, a  
5 retirement system, pension fund, or investment board subject to  
6 this Code, except those whose investments are restricted by  
7 Section 1-113.2 of this Code, shall not enter into a contract  
8 with a consultant that exceeds 5 years in duration. No contract  
9 to provide consulting services may be renewed or extended. At  
10 the end of the term of a contract, however, the consultant is  
11 eligible to compete for a new contract as provided in this  
12 Section. No retirement system, pension fund, or investment  
13 board shall attempt to avoid or contravene the restrictions of  
14 this subsection (d) by any means.

15 (e) Within 60 days after the effective date of this  
16 amendatory Act of the 96th General Assembly, each investment  
17 adviser or consultant currently providing services or subject  
18 to an existing contract for the provision of services must  
19 disclose to the board of trustees all direct and indirect fees,  
20 commissions, penalties, and other compensation paid by or on  
21 behalf of the investment adviser or consultant in connection  
22 with the provision of those services and shall update that  
23 disclosure promptly after a modification of those payments or  
24 an additional payment. The person shall update the disclosure  
25 promptly after a modification of those payments or an  
26 additional payment. The disclosures required by this

1 subsection (e) shall be in writing and shall include the date  
2 and amount of each payment and the name and address of each  
3 recipient of a payment.

4 (f) The retirement system, pension fund, or board of  
5 investment shall develop uniform documents that shall be used  
6 for the solicitation, review, and acceptance of all investment  
7 services. The form shall include the terms contained in  
8 subsection (c) of this Section. All such uniform documents  
9 shall be posted on the retirement system's, pension fund's, or  
10 investment board's web site.

11 (g) A description of every contract for investment services  
12 shall be posted in a conspicuous manner on the web site of the  
13 retirement system, pension fund, or investment board. The  
14 description must include the name of the person or entity  
15 awarded a contract, the total amount applicable to the  
16 contract, the total fees paid or to be paid, and a disclosure  
17 approved by the board describing the factors that contributed  
18 to the selection of an investment adviser or consultant.

19 (Source: P.A. 96-6, eff. 4-3-09; 96-1554, eff. 3-18-11.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.